



House of Representatives

General Assembly

File No. 60

February Session, 2016

Substitute House Bill No. 5247

House of Representatives, March 21, 2016

The Committee on Government Administration and Elections reported through REP. JUTILA of the 37th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE AUDITORS OF PUBLIC ACCOUNTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (e) of section 2-90 of the 2016 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective from passage*):

4 (e) (1) If the Auditors of Public Accounts discover, or if it should
5 come to their knowledge, that any unauthorized, illegal, irregular or
6 unsafe handling or expenditure of state funds or quasi-public agency
7 funds or any breakdown in the safekeeping of any resources of the
8 state or a quasi-public agency has occurred or is contemplated, they
9 shall forthwith [present] report the facts to the Governor, the State
10 Comptroller, the clerk of each house of the General Assembly, the
11 Legislative Program Review and Investigations Committee and the
12 Attorney General, [.] except if a matter reported to the Auditors of
13 Public Accounts pursuant to section 4-33a, as amended by this act, is

14 still under investigation by a state or quasi-public agency, the Auditors
15 of Public Accounts may allow the agency reasonable time to conduct
16 such investigation prior to the auditors reporting the matter to said
17 persons and committee. (2) If the Auditors of Public Accounts elect to
18 delay reporting such matter, the auditors shall immediately notify the
19 Attorney General of such decision and, if the Attorney General
20 requests that the matter be reported immediately, the Auditors of
21 Public Accounts shall comply with such request. (3) Any Auditor of
22 Public Accounts neglecting to make such a report required under
23 subdivision (1) of this subsection, or any agent of the auditors
24 neglecting to report to the Auditors of Public Accounts any such
25 matter discovered by him or coming to his knowledge shall be fined
26 not more than one hundred dollars or imprisoned not more than six
27 months or both.

28 Sec. 2. Section 4-33a of the general statutes is repealed and the
29 following is substituted in lieu thereof (*Effective from passage*):

30 (a) All boards of trustees of state institutions, state department
31 heads, boards, commissions, other state agencies responsible for state
32 property and funds and quasi-public agencies, as defined in section 1-
33 120, shall promptly notify the Auditors of Public Accounts and the
34 Comptroller of any unauthorized, illegal, irregular or unsafe handling
35 or expenditure of state or quasi-public agency funds or breakdowns in
36 the safekeeping of any other resources of the state or quasi-public
37 agencies or contemplated action to do the same within their
38 knowledge. In the case of such notification to the Auditors of Public
39 Accounts, the auditors may permit aggregate reporting in a manner
40 and at a schedule determined by the auditors.

41 (b) If the Auditors of Public Accounts determine that any such state
42 agency or quasi-public agency has failed to notify them as required
43 under subsection (a) of this section, the auditors shall report such
44 failure to the joint standing committee of the General Assembly having
45 cognizance of matters relating to government administration in
46 accordance with the provisions of section 11-4a not later than thirty

47 days after the auditors make such determination. Said committee may
48 hold a public hearing on such report and require the head of any such
49 state agency or quasi-public agency to appear before the committee at
50 such hearing to explain the reasons for the agency's failure to comply
51 with the requirement to notify the Auditors of Public Accounts in
52 accordance with this section.

53 Sec. 3. Section 4-215 of the general statutes is repealed and the
54 following is substituted in lieu thereof (*Effective July 1, 2016*):

55 Each personal service agreement [executed on or after July 1, 1994,
56 and] having a cost of more than twenty thousand dollars but not more
57 than fifty thousand dollars and a term of not more than one year shall
58 be based on competitive negotiation or competitive quotations, unless
59 the state agency purchasing the personal services determines that a
60 sole source purchase is required and applies to the secretary for a
61 waiver from such requirement and the secretary grants the waiver.
62 Not later than March 1, 1994, the secretary shall adopt guidelines for
63 determining the types of services that may qualify for such waivers.
64 The qualifying services shall [include, but not] be limited to [,] (1)
65 services for which the cost to the state of a competitive selection
66 procedure would outweigh the benefits of such procedure, as
67 documented by the state agency, (2) proprietary services, (3) services
68 to be provided by a contractor mandated by the general statutes or a
69 public or special act, and (4) emergency services, including services
70 needed for the protection of life or health. The secretary shall
71 immediately notify the Auditors of Public Accounts of any application
72 that the secretary receives for approval of a sole source purchase of
73 audit services and give the auditors an opportunity to review the
74 application and advise the secretary as to whether such audit services
75 are necessary and, if so, could be provided by said auditors.

76 Sec. 4. Section 1-101pp of the general statutes is repealed and the
77 following is substituted in lieu thereof (*Effective October 1, 2016*):

78 Any commissioner, deputy commissioner, state agency or quasi-
79 public agency head or deputy, or person in charge of state agency

80 procurement, [and] contracting or human resources who has
81 reasonable cause to believe that a person has violated the provisions of
82 the Code of Ethics for Public Officials set forth in part I of this chapter
83 or any law or regulation concerning ethics in state contracting shall
84 report such belief to the Office of State Ethics, which may further
85 report such information to the [Auditor] Auditors of Public Accounts,
86 the Chief State's Attorney or the Attorney General.

87 Sec. 5. Subdivision (8) of section 4-37f of the general statutes is
88 repealed and the following is substituted in lieu thereof (*Effective*
89 *October 1, 2016*):

90 (8) A foundation which has in any of its fiscal years receipts and
91 earnings from investments totaling one hundred thousand dollars per
92 year or more, or a foundation established for the principal purpose of
93 coordinated emergency recovery that operated in response to an
94 eligible incident, as defined in section 4-37r, during the fiscal year or
95 with funds that exceeded one hundred thousand dollars in the
96 aggregate, shall have completed on its behalf for such fiscal year a full
97 audit of the books and accounts of the foundation. A foundation which
98 has receipts and earnings from investments totaling less than one
99 hundred thousand dollars in each fiscal year during any three of its
100 consecutive fiscal years beginning October 1, 1986, shall have
101 completed on its behalf for the third fiscal year in any such three-year
102 period a full audit of the books and accounts of the foundation, unless
103 such foundation was established for the principal purpose of
104 coordinated emergency recovery and had completed on its behalf such
105 an audit for any year in any such three-year period. For each fiscal year
106 in which an audit is not required pursuant to this subdivision financial
107 statements shall be provided by the foundation to the executive
108 authority of the state agency. Each audit under this subdivision shall
109 be (A) conducted [(A)] by an independent certified public accountant
110 or, if requested by the state agency with the consent of the foundation,
111 the Auditors of Public Accounts, [and] (B) conducted in accordance
112 with generally accepted auditing standards, and (C) completed, and a
113 copy of such audit submitted, in accordance with this section not later

114 than six months after the end of the applicable fiscal year. The audit
115 report shall include financial statements, a management letter and an
116 audit opinion which address the conformance of the operating
117 procedures of the foundation with the provisions of sections 4-37e to 4-
118 37i, inclusive, and recommend any corrective actions needed to ensure
119 such conformance. Each audit report shall disclose the receipt or use
120 by the foundation of any public funds in violation of said sections or
121 any other provision of the general statutes. The foundation shall
122 provide a copy of each audit report completed pursuant to this
123 subdivision to the executive authority of the state agency and the
124 Attorney General. Each financial statement required under this
125 subdivision shall include, for the fiscal year to which the statement
126 applies, the total receipts and earnings from investments of the
127 foundation and the amount and purpose of each receipt of funds by
128 the state agency from the foundation. As used in this subdivision,
129 "fiscal year" means any twelve-month period adopted by a foundation
130 as its accounting year;

131 Sec. 6. Subsection (b) of section 4-37g of the general statutes is
132 repealed and the following is substituted in lieu thereof (*Effective*
133 *October 1, 2016*):

134 (b) In the case of an audit required pursuant to section 4-37f, as
135 amended by this act, that was not conducted by the Auditors of Public
136 Accounts, the executive authority and chief financial official of the
137 state agency shall review the audit report received pursuant to said
138 section and, upon such review, the executive authority shall sign a
139 letter indicating that he has reviewed the audit report and transmit a
140 copy of the letter and report to the Auditors of Public Accounts. If such
141 audit report indicates that (1) funds for deposit and retention in state
142 accounts have been deposited and retained in foundation accounts, or
143 (2) state funds, personnel, services or facilities may have been used in
144 violation of sections 4-37e to 4-37i, inclusive, or any other provision of
145 the general statutes, the Auditors of Public Accounts may conduct a
146 full audit of the books and accounts of the foundation pertaining to
147 such funds, personnel, services or facilities, in accordance with the

148 provisions of section 2-90, as amended by this act. For the purposes of
149 such audit, the Auditors of Public Accounts shall have access to the
150 working papers compiled by the certified public accountant in the
151 preparation of the audit conducted pursuant to section 4-37f, as
152 amended by this act, which are relevant to such use of state funds,
153 personnel, services or facilities in violation of the provisions of sections
154 4-37e to 4-37i, inclusive, or any other provision of the general statutes.
155 If the audit required pursuant to section 4-37f, as amended by this act,
156 was not conducted, the Auditors of Public Accounts may conduct a
157 full audit of the books and accounts of the foundation, in accordance
158 with the provisions of section 2-90, as amended by this act.

159 Sec. 7. Subdivision (3) of subsection (c) of section 10a-109n of the
160 general statutes is repealed and the following is substituted in lieu
161 thereof (*Effective from passage*):

162 (3) The university shall thereafter give notice to those so
163 prequalified by the university pursuant to subdivision (2) of this
164 section of the time and place where the public letting shall occur and
165 shall include in such notice such information of the work required as
166 appropriate. Each bid or proposal shall be kept sealed until opened
167 publicly at the time and place as set forth in the notice soliciting such
168 bid or proposal. The university shall not award any construction
169 contract, including, but not limited to, any total cost basis contract,
170 after public letting, except to the responsible qualified contractor,
171 submitting the lowest bid or proposal in compliance with the bid or
172 proposal requirements of the solicitation document, [The] except the
173 university may [however,] (A) waive any informality in a bid or
174 proposal, and [may] (B) either reject all bids or proposals and again
175 advertise for bids or proposals or interview at least three responsible
176 qualified contractors and negotiate and enter into with any one of such
177 contractors that construction contract which is both fair and reasonable
178 to the university.

179 Sec. 8. Section 2-90b of the general statutes is repealed and the
180 following is substituted in lieu thereof (*Effective from passage*):

181 The Auditors of Public Accounts shall [annually] biennially conduct
182 an audit of reimbursements made from the Bradley Enterprise Fund to
183 the Department of Emergency Services and Public Protection to cover
184 the cost of Troop W operations carried out in accordance with the
185 memorandum of understanding between the Department of
186 Emergency Services and Public Protection and the Department of
187 Transportation.

188 Sec. 9. Section 4-61dd of the 2016 supplement to the general statutes
189 is repealed and the following is substituted in lieu thereof (*Effective*
190 *October 1, 2016*):

191 (a) Any person having knowledge of any matter involving
192 corruption, unethical practices, violation of state laws or regulations,
193 mismanagement, gross waste of funds, abuse of authority or danger to
194 the public safety occurring in any state department or agency, [or] any
195 quasi-public agency, as defined in section 1-120, or any Probate Court,
196 or any person having knowledge of any matter involving corruption,
197 violation of state or federal laws or regulations, gross waste of funds,
198 abuse of authority or danger to the public safety occurring in any large
199 state contract, may transmit all facts and information in such person's
200 possession concerning such matter to the Auditors of Public Accounts.
201 The Auditors of Public Accounts shall review such matter and report
202 their findings and any recommendations to the Attorney General.
203 Upon receiving such a report, the Attorney General shall make such
204 investigation as the Attorney General deems proper regarding such
205 report and any other information that may be reasonably derived from
206 such report. Prior to conducting an investigation of any information
207 that may be reasonably derived from such report, the Attorney
208 General shall consult with the Auditors of Public Accounts concerning
209 the relationship of such additional information to the report that has
210 been issued pursuant to this subsection. Any such subsequent
211 investigation deemed appropriate by the Attorney General shall only
212 be conducted with the concurrence and assistance of the Auditors of
213 Public Accounts. At the request of the Attorney General or on their
214 own initiative, the auditors shall assist in the investigation.

215 (b) (1) The Auditors of Public Accounts may reject any complaint
216 received pursuant to subsection (a) of this section if the Auditors of
217 Public Accounts determine one or more of the following:

218 (A) There are other available remedies that the complainant can
219 reasonably be expected to pursue;

220 (B) The complaint is better suited for investigation or enforcement
221 by another state agency;

222 (C) The complaint is trivial, frivolous, vexatious or not made in
223 good faith;

224 (D) Other complaints have greater priority in terms of serving the
225 public good;

226 (E) The complaint is not timely or is too long delayed to justify
227 further investigation; or

228 (F) The complaint could be handled more appropriately as part of
229 an ongoing or scheduled regular audit.

230 (2) If the Auditors of Public Accounts reject a complaint pursuant to
231 subdivision (1) of this subsection, the Auditors of Public Accounts
232 shall provide a report to the Attorney General setting out the basis for
233 the rejection.

234 (3) If at any time the Auditors of Public Accounts determine that a
235 complaint is more appropriately investigated by another state agency,
236 the Auditors of Public Accounts shall refer the complaint to such
237 agency. The investigating agency shall provide a status report
238 regarding the referred complaint to the Auditors of Public Accounts
239 upon request.

240 (c) Notwithstanding the provisions of section 12-15, the
241 Commissioner of Revenue Services may, upon written request by the
242 Auditors of Public Accounts, disclose return or return information, as
243 defined in section 12-15, to the Auditors of Public Accounts for

244 purposes of preparing a report under subsection (a) or (b) of this
245 section. Such return or return information shall not be published in
246 any report prepared in accordance with subsection (a) or (b) of this
247 section, and shall not otherwise be redisclosed, except that such
248 information may be redisclosed to the Attorney General for purposes
249 of an investigation authorized by subsection (a) of this section. Any
250 person who violates the provisions of this subsection shall be subject to
251 the provisions of subsection (g) of section 12-15.

252 (d) The Attorney General may summon witnesses, require the
253 production of any necessary books, papers or other documents and
254 administer oaths to witnesses, where necessary, for the purpose of an
255 investigation pursuant to this section or for the purpose of
256 investigating a suspected violation of subsection (a) of section 4-275
257 until such time as the Attorney General files a civil action pursuant to
258 section 4-276. Upon the conclusion of the investigation, the Attorney
259 General shall where necessary, report any findings to the Governor, or
260 in matters involving a Probate Court, to the Probate Court
261 Administrator, or in matters involving criminal activity, to the Chief
262 State's Attorney. In addition to the exempt records provision of section
263 1-210, the Auditors of Public Accounts and the Attorney General shall
264 not, after receipt of any information from a person under the
265 provisions of this section or sections 4-276 to 4-280, inclusive, disclose
266 the identity of such person without such person's consent unless the
267 Auditors of Public Accounts or the Attorney General determines that
268 such disclosure is unavoidable, and may withhold records of such
269 investigation, during the pendency of the investigation.

270 (e) (1) No state officer or employee, as defined in section 4-141, no
271 quasi-public agency officer or employee, no officer or employee of a
272 large state contractor and no appointing authority shall take or
273 threaten to take any personnel action against any state or quasi-public
274 agency employee or any employee of a large state contractor in
275 retaliation for (A) such employee's or contractor's disclosure of
276 information to (i) an employee of the Auditors of Public Accounts or
277 the Attorney General under the provisions of subsection (a) of this

278 section; (ii) an employee of the state agency or quasi-public agency
279 where such state officer or employee is employed; (iii) an employee of
280 a state agency pursuant to a mandated reporter statute or pursuant to
281 subsection (b) of section 17a-28; (iv) an employee of the Probate Court
282 where such employee is employed; or ~~[(iv)]~~ (v) in the case of a large
283 state contractor, an employee of the contracting state agency
284 concerning information involving the large state contract; or (B) such
285 employee's testimony or assistance in any proceeding under this
286 section.

287 (2) (A) Not later than ninety days after learning of the specific
288 incident giving rise to a claim that a personnel action has been
289 threatened or has occurred in violation of subdivision (1) of this
290 subsection, a state or quasi-public agency employee, an employee of a
291 large state contractor or the employee's attorney may file a complaint
292 against the state agency, quasi-public agency, Probate Court, large
293 state contractor or appointing authority concerning such personnel
294 action with the Chief Human Rights Referee designated under section
295 46a-57. Such complaint may be amended if an additional incident
296 giving rise to a claim under this subdivision occurs subsequent to the
297 filing of the original complaint. The Chief Human Rights Referee shall
298 assign the complaint to a human rights referee appointed under
299 section 46a-57, who shall conduct a hearing and issue a decision
300 concerning whether the officer or employee taking or threatening to
301 take the personnel action violated any provision of this section. The
302 human rights referee may order a state agency, ~~[or] quasi-public~~
303 ~~agency~~ or Probate Court to produce (i) an employee of such agency,
304 ~~[or] quasi-public agency~~ or Probate Court to testify as a witness in any
305 proceeding under this subdivision, or (ii) books, papers or other
306 documents relevant to the complaint, without issuing a subpoena. If
307 such agency, ~~[or] quasi-public agency~~ or Probate Court fails to produce
308 such witness, books, papers or documents, not later than thirty days
309 after such order, the human rights referee may consider such failure as
310 supporting evidence for the complainant. If, after the hearing, the
311 human rights referee finds a violation, the referee may award the
312 aggrieved employee reinstatement to the employee's former position,

313 back pay and reestablishment of any employee benefits for which the
314 employee would otherwise have been eligible if such violation had not
315 occurred, reasonable attorneys' fees, and any other damages. For the
316 purposes of this subsection, such human rights referee shall act as an
317 independent hearing officer. The decision of a human rights referee
318 under this subsection may be appealed by any person who was a party
319 at such hearing, in accordance with the provisions of section 4-183.

320 (B) The Chief Human Rights Referee shall adopt regulations, in
321 accordance with the provisions of chapter 54, establishing the
322 procedure for filing complaints and noticing and conducting hearings
323 under subparagraph (A) of this subdivision.

324 (3) As an alternative to the provisions of subdivision (2) of this
325 subsection: (A) A state or quasi-public agency employee who alleges
326 that a personnel action has been threatened or taken may file an appeal
327 not later than ninety days after learning of the specific incident giving
328 rise to such claim with the Employees' Review Board under section 5-
329 202, or, in the case of a state or quasi-public agency employee covered
330 by a collective bargaining contract, in accordance with the procedure
331 provided by such contract; or (B) an employee of a Probate Court or of
332 a large state contractor alleging that such action has been threatened or
333 taken may, after exhausting all available administrative remedies,
334 bring a civil action in accordance with the provisions of subsection (c)
335 of section 31-51m.

336 (4) In any proceeding under subdivision (2) or (3) of this subsection
337 concerning a personnel action taken or threatened against any state or
338 quasi-public agency employee or any employee of a large state
339 contractor, which personnel action occurs not later than two years after
340 the employee first transmits facts and information concerning a matter
341 under subsection (a) of this section or discloses information under
342 subdivision (1) of this subsection to the Auditors of Public Accounts,
343 the Attorney General or an employee of a state agency, [or] quasi-
344 public agency or Probate Court, as applicable, there shall be a
345 rebuttable presumption that the personnel action is in retaliation for

346 the action taken by the employee under subsection (a) of this section or
347 subdivision (1) of this subsection.

348 (5) If a state officer or employee, as defined in section 4-141, a quasi-
349 public agency officer or employee, an officer or employee of a large
350 state contractor or an appointing authority takes or threatens to take
351 any action to impede, fail to renew or cancel a contract between a state
352 agency and a large state contractor, or between a large state contractor
353 and its subcontractor, in retaliation for the disclosure of information
354 pursuant to subsection (a) of this section or subdivision (1) of this
355 subsection to any agency listed in subdivision (1) of this subsection,
356 such affected agency, contractor or subcontractor may, not later than
357 ninety days after learning of such action, threat or failure to renew,
358 bring a civil action in the superior court for the judicial district of
359 Hartford to recover damages, attorney's fees and costs.

360 (f) Any employee of a state or quasi-public agency, [or] Probate
361 Court or large state contractor, who is found by the Auditors of Public
362 Accounts, the Attorney General, a human rights referee or the
363 Employees' Review Board to have knowingly and maliciously made
364 false charges under subsection (a) of this section, shall be subject to
365 disciplinary action by such employee's appointing authority up to and
366 including dismissal. In the case of a state or quasi-public agency
367 employee, such action shall be subject to appeal to the Employees'
368 Review Board in accordance with section 5-202, or in the case of state
369 or quasi-public agency employees included in collective bargaining
370 contracts, the procedure provided by such contracts.

371 (g) On or before September first, annually, the Auditors of Public
372 Accounts shall submit, in accordance with the provisions of section 11-
373 4a, to the clerk of each house of the General Assembly a report
374 indicating the number of matters for which facts and information were
375 transmitted to the auditors pursuant to this section during the
376 preceding state fiscal year and the disposition of each such matter.

377 (h) Each contract between a state or quasi-public agency and a large
378 state contractor shall provide that, if an officer, employee or

379 appointing authority of a large state contractor takes or threatens to
380 take any personnel action against any employee of the contractor in
381 retaliation for such employee's disclosure of information to any
382 employee of the contracting state or quasi-public agency or the
383 Auditors of Public Accounts or the Attorney General under the
384 provisions of subsection (a) or subdivision (1) of subsection (e) of this
385 section, the contractor shall be liable for a civil penalty of not more
386 than five thousand dollars for each offense, up to a maximum of
387 twenty per cent of the value of the contract. Each violation shall be a
388 separate and distinct offense and in the case of a continuing violation
389 each calendar day's continuance of the violation shall be deemed to be
390 a separate and distinct offense. The executive head of the state or
391 quasi-public agency may request the Attorney General to bring a civil
392 action in the superior court for the judicial district of Hartford to seek
393 imposition and recovery of such civil penalty.

394 (i) Each state agency or quasi-public agency shall post a notice of the
395 provisions of this section relating to state employees and quasi-public
396 agency employees in a conspicuous place that is readily available for
397 viewing by employees of such agency or quasi-public agency. Each
398 Probate Court shall post a notice of the provisions of this section
399 relating to Probate Court employees in a conspicuous place that is
400 readily available for viewing by employees of such court. Each large
401 state contractor shall post a notice of the provisions of this section
402 relating to large state contractors in a conspicuous place which is
403 readily available for viewing by the employees of the contractor.

404 (j) No person who, in good faith, discloses information in
405 accordance with the provisions of this section shall be liable for any
406 civil damages resulting from such good faith disclosure.

407 (k) As used in this section:

408 (1) "Large state contract" means a contract between an entity and a
409 state or quasi-public agency, having a value of five million dollars or
410 more; and

411 (2) "Large state contractor" means an entity that has entered into a
412 large state contract with a state or quasi-public agency.

413 (l) (1) No officer or employee of a state shellfish grounds lessee shall
414 take or threaten to take any personnel action against any employee of a
415 state shellfish grounds lessee in retaliation for (A) such employee's
416 disclosure of information to an employee of the leasing agency
417 concerning information involving the state shellfish grounds lease, or
418 (B) such employee's testimony or assistance in any proceeding under
419 this section.

420 (2) (A) Not later than ninety days after learning of the specific
421 incident giving rise to a claim that a personnel action has been
422 threatened or has occurred in violation of subdivision (1) of this
423 subsection, an employee of a state shellfish grounds lessee or the
424 employee's attorney may file a complaint against the state shellfish
425 grounds lessee concerning such personnel action with the Chief
426 Human Rights Referee designated under section 46a-57. Such
427 complaint may be amended if an additional incident giving rise to a
428 claim under this subdivision occurs subsequent to the filing of the
429 original complaint. The Chief Human Rights Referee shall assign the
430 complaint to a human rights referee appointed under section 46a-57,
431 who shall conduct a hearing and issue a decision concerning whether
432 the officer or employee taking or threatening to take the personnel
433 action violated any provision of this subsection. The human rights
434 referee may order a state shellfish grounds lessee to produce (i) an
435 employee of such lessee to testify as a witness in any proceeding under
436 this subdivision, or (ii) books, papers or other documents relevant to
437 the complaint, without issuing a subpoena. If such state shellfish
438 grounds lessee fails to produce such witness, books, papers or
439 documents, not later than thirty days after such order, the human
440 rights referee may consider such failure as supporting evidence for the
441 complainant. If, after the hearing, the human rights referee finds a
442 violation, the referee may award the aggrieved employee
443 reinstatement to the employee's former position, back pay and
444 reestablishment of any employee benefits for which the employee

445 would otherwise have been eligible if such violation had not occurred,
446 reasonable attorneys' fees and any other damages. For the purposes of
447 this subsection, such human rights referee shall act as an independent
448 hearing officer. The decision of a human rights referee under this
449 subsection may be appealed by any person who was a party at such
450 hearing, in accordance with the provisions of section 4-183.

451 (B) The Chief Human Rights Referee shall adopt regulations, in
452 accordance with the provisions of chapter 54, establishing the
453 procedure for filing complaints and noticing and conducting hearings
454 under subparagraph (A) of this subdivision.

455 (3) As an alternative to the provisions of subdivision (2) of this
456 subsection, an employee of a state shellfish grounds lessee who alleges
457 that a personnel action has been threatened or taken may, after
458 exhausting all available administrative remedies, bring a civil action in
459 accordance with the provisions of subsection (c) of section 31-51m.

460 (4) In any proceeding under subdivision (2) or (3) of this subsection
461 concerning a personnel action taken or threatened against any
462 employee of a state shellfish grounds lessee, which personnel action
463 occurs not later than two years after the employee first transmits facts
464 and information to an employee of the leasing agency concerning the
465 state shellfish grounds lease, there shall be a rebuttable presumption
466 that the personnel action is in retaliation for the action taken by the
467 employee under subdivision (1) of this subsection.

468 Sec. 10. Subsection (a) of section 1-123 of the general statutes is
469 repealed and the following is substituted in lieu thereof (*Effective from*
470 *passage*):

471 (a) The board of directors of each quasi-public agency shall annually
472 submit a report to the Governor and the Auditors of Public Accounts
473 and two copies of such report to the Legislative Program Review and
474 Investigations Committee. Such report shall include, but not be limited
475 to, the following: (1) A list of all bond issues for the preceding fiscal
476 year, including, for each such issue, the financial advisor and

477 underwriters, whether the issue was competitive, negotiated or
478 privately placed, and the issue's face value and net proceeds; (2) a list
479 of all projects other than those pertaining to owner-occupied housing
480 or student loans receiving financial assistance during the preceding
481 fiscal year, including each project's purpose, location, and the amount
482 of funds provided by the agency; (3) a list of all outside individuals
483 and firms receiving in excess of five thousand dollars in the form of
484 loans, grants or payments for services, except for individuals receiving
485 loans for owner-occupied housing and education; (4) a balance sheet
486 and operating statement showing all revenues and expenditures; (5)
487 the cumulative value of all bonds issued, the value of outstanding
488 bonds, and the amount of the state's contingent liability; (6) the
489 affirmative action policy statement, a description of the composition of
490 the agency's work force by race, sex, and occupation and a description
491 of the agency's affirmative action efforts; and (7) a description of
492 planned activities for the current fiscal year. Not later than thirty days
493 after receiving copies of such report from the board of a quasi-public
494 agency, the Legislative Program Review and Investigations Committee
495 shall prepare an assessment of whether the report complies with the
496 requirements of this section and shall submit the assessment and a
497 copy of the report to the joint standing committee of the General
498 Assembly having cognizance of matters relating to the quasi-public
499 agency.

500 Sec. 11. Subsection (h) of section 38a-1051 of the 2016 supplement to
501 the general statutes is repealed and the following is substituted in lieu
502 thereof (*Effective from passage*):

503 (h) The commission shall be within the [Office of the Healthcare
504 Advocate] Insurance Department for administrative purposes only.

505 Sec. 12. (NEW) (*Effective October 1, 2016*) For the purposes of this
506 section, "state agency" means any department, board, council,
507 commission, institution or other executive branch agency of state
508 government, including, but not limited to, each constituent unit and
509 each public institution of higher education. On and after October 1,

510 2016, no state agency shall make a payment to an employee resigning
511 or retiring from employment with such state agency for the purposes
512 of avoiding costs associated with potential litigation or pursuant to a
513 nondisparagement agreement without obtaining the approval of the
514 Attorney General.

515 Sec. 13. Section 4a-80 of the general statutes is repealed and the
516 following is substituted in lieu thereof (*Effective October 1, 2016*):

517 (a) Each public agency when contracting to purchase goods or
518 services or when leasing real or personal property shall require each
519 person contracting with the state to provide such person's federal
520 Social Security account number or federal employer identification
521 number, or both, if available, to such agency or the reason or reasons
522 for the unavailability. Such numbers or reasons shall be obtained by
523 any agency as part of the administration of taxes administered by the
524 commissioner for the purpose of establishing the identification of
525 persons affected by such taxes.

526 (b) Each public agency shall, on or before [August 1, 1995, and]
527 August first [annually thereafter] of each year furnish electronically to
528 the commissioner, [on a compatible magnetic tape file or in some
529 other] in a form which is acceptable to the commissioner, a list of all
530 persons furnishing goods or services or leasing real or personal
531 property to such agency, if any, during the preceding state fiscal year.
532 On or before August 1, 2016, and in each such list furnished thereafter,
533 each public agency shall also include in such list all persons paid by a
534 third-party administrator on behalf of the public agency using state
535 funds for the purchase of goods or services for the state.

536 (c) Each list provided to the commissioner pursuant to this section
537 shall contain the name, address, federal Social Security account
538 number or federal employer identification number of each person
539 named on such list, or both, if available to such agency or the reason or
540 reasons for the unavailability.

541 Sec. 14. Sections 6-33, 6-33a, 6-36, 6-38j and 6-38l of the general

542 statutes are repealed. (*Effective from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	2-90(e)
Sec. 2	<i>from passage</i>	4-33a
Sec. 3	<i>July 1, 2016</i>	4-215
Sec. 4	<i>October 1, 2016</i>	1-101pp
Sec. 5	<i>October 1, 2016</i>	4-37f(8)
Sec. 6	<i>October 1, 2016</i>	4-37g(b)
Sec. 7	<i>from passage</i>	10a-109n(c)(3)
Sec. 8	<i>from passage</i>	2-90b
Sec. 9	<i>October 1, 2016</i>	4-61dd
Sec. 10	<i>from passage</i>	1-123(a)
Sec. 11	<i>from passage</i>	38a-1051(h)
Sec. 12	<i>October 1, 2016</i>	New section
Sec. 13	<i>October 1, 2016</i>	4a-80
Sec. 14	<i>from passage</i>	Repealer section

Statement of Legislative Commissioners:

In Sec. 2(b), "discover such failure" was changed to "make such determination" for consistency.

GAE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill results in no cost to the state, as it requires state agencies using state funds for a contract with a third-party administrator to annually report to the Commissioner of Revenue Services a list of all persons paid by said contractor, which is readily available. The bill also makes technical changes to the reporting responsibilities of the State Auditors, which would have no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5247*****AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE AUDITORS OF PUBLIC ACCOUNTS.*****SUMMARY:**

This bill makes numerous changes to statutes concerning government administration. Among other things, it does the following:

1. allows the auditors of public accounts to (a) delay a full report of certain misuses of state and quasi-public agency funds until the subject agency completes its investigation into those activities and (b) permit aggregate reporting by state and quasi-public agencies to the auditors of these activities;
2. requires the auditors to notify the Government Administration and Elections (GAE) Committee whenever state and quasi-public agencies fail to notify them of certain misuses of state funds;
3. expands who must report certain suspected ethics violations to the Office of State Ethics (OSE) to include state agencies' human resources directors;
4. limits the circumstances under which the Office of Policy and Management (OPM) secretary may waive competitive bidding requirements for certain personal services agreements;
5. requires the OPM secretary to notify the auditors whenever he receives a request from a state agency for a sole source procurement of certain audit services;
6. allows the auditors of public accounts to conduct a full audit of a state agency foundation that did not have its own audit

completed;

7. subjects probate courts to the state's whistleblower law; and
8. requires agencies to annually report to the revenue services commissioner a list of all persons paid by a third-party administrator on behalf of the agency using state funds to purchase goods and services.

The bill also requires the auditors to audit biennially, rather than annually, reimbursements from the Bradley Enterprise Fund to the Department of Emergency Services and Public Protection; the reimbursements support State Police patrols at Bradley Airport (§ 8). It requires quasi-public agencies to include an operating statement in their annual report to the governor, auditors of public accounts, and the Program Review and Investigations (PRI) Committee; current law requires that they include a balance sheet only (§ 10).

The bill places the Commission on Health Equity within the Insurance Department for administrative purposes only; under current law, the commission is within the Office of the Healthcare Advocate for administrative purposes only (§ 11). It also requires executive branch agencies, boards, and commissions, including the constituent units of higher education, to obtain the attorney general's approval before making a payment to a departing employee that is intended to avoid litigation costs or is pursuant to a nondisparagement agreement (§ 12).

Lastly, the bill (1) makes technical changes to a statute concerning UConn's awarding of construction contracts (§ 7) and (2) repeals obsolete statutes concerning sheriffs (§ 14).

EFFECTIVE DATE: Upon passage, except that provisions affecting (1) whistleblowers, foundation audits, ethics reporting, nondisparagement payments, and reports to the revenue services commissioner are effective October 1, 2016 and (2) personal service agreement waivers and audit services procurements are effective July

1, 2016.

§§ 1-2 & 4 — REPORTS OF CERTAIN ACTIVITIES

Misuse of State Funds

Under current law, the auditors of public accounts must immediately report, to the governor, comptroller, House and Senate clerks, PRI Committee, and attorney general, any actual or contemplated (1) unauthorized, illegal, irregular, or unsafe handling or expenditure of state agency funds or (2) breakdowns in the safekeeping of any other state agency resources. The bill extends these requirements to quasi-public agency funds and resources.

By law, boards of trustees of state institutions, state agency heads, boards, commissions, other state agencies responsible for state property and funds, and quasi-public agencies must promptly notify the auditors of public accounts and the comptroller of any misuses of state funds described above. The bill allows the auditors to permit aggregate reporting of these matters in a manner and schedule determined by the auditors. It also allows the auditors, in cases where a state or quasi-public agency is still investigating such a matter and subject to the attorney general's approval, to permit the agency a reasonable period of time to conduct the investigation before the auditors notify the governor, comptroller, House and Senate clerks, and PRI Committee. The auditors must (1) immediately notify the attorney general of such a delay and (2) report the matter immediately to the other entities if the attorney general requests that they do so.

The bill requires the auditors to notify the GAE Committee whenever state or quasi-public agencies fail to notify them of the misuses of state funds described above. The auditors must notify the committee within 30 days after discovering the failure. The committee may hold a public hearing and require the agency or quasi-public agency head to appear at the hearing to explain the reasons for failing to notify the auditors.

§ 4 — Reports of Suspected Ethics Violations

The bill requires any person in charge of a state agency's human resources to report to OSE when he or she reasonably believes that a person has violated the Code of Ethics for Public Officials or any law or regulation concerning ethics in state contracting. Existing law requires commissioners, deputy commissioners, state or quasi-public agency heads or deputies, and state agency procurement and contracting heads to make such a report to OSE.

§ 3 — PERSONAL SERVICES AGREEMENTS

Waivers

The bill limits the services (i.e., "qualifying services") for which the OPM secretary may waive competitive bidding requirements for personal services agreements (PSAs). It limits qualifying services to (1) those for which the cost of a competitive selection outweighs the benefits, as documented by the agency; (2) proprietary services; (3) services to be provided by a contractor mandated by the general statutes or a public or special act; and (4) emergency services. Under current law, qualifying services may include other types of services beyond these four categories, as determined by the secretary.

By law, PSAs costing more than \$20,000 or lasting for more than one year must be based on competitive negotiation or competitive quotations unless the purchasing agency applies to the OPM secretary for a waiver and the secretary grants the waiver. Additionally, PSAs that are expected to (1) last for more than one year or (2) cost more than \$50,000 must be approved by the OPM secretary before the agency begins the solicitation process. Agencies must also (1) follow OPM standards when entering into a PSA and (2) receive the secretary's approval for certain amendments to PSAs.

Audit Services

The bill requires the OPM secretary to notify the auditors of public accounts whenever he receives a request for a sole source purchase for audit services that cost more than \$20,000, but do not exceed \$50,000. He must allow the auditors to review the application and advise him on whether the services are necessary and, if so, could be provided by

the auditors. Under existing law, the secretary must allow the auditors to review requests for audit services PSAs that cost more than \$50,000.

§§ 5 & 6 — FOUNDATION AUDITS

The law requires that state agency foundations (i.e., nonprofit entities established for fundraising purposes) be audited at specified times by an independent certified public accountant. The bill requires that these audits be completed, and copies submitted to the attorney general and state agency's executive authority, within six months after the audited fiscal year ends. Current law does not establish a submission deadline. The bill allows the auditors of public accounts to conduct a full audit of a foundation that did not have its own audit completed by the six-month deadline.

§ 9 — WHISTLEBLOWING

The bill subjects probate courts to the state's whistleblower law. Under current law, the whistleblower provisions apply to the Office of Probate Court Administration, but not individual probate courts.

Generally, the bill does the following:

1. requires the auditors of public accounts to review whistleblower complaints made against probate courts and report any findings or recommendations to the attorney general;
2. requires the attorney general to conduct any investigation he deems proper and report any findings to the probate court administrator and any matters involving criminal activity to the chief state's attorney;
3. prohibits probate court officers and employees from retaliating against a probate court employee who files a whistleblower complaint;
4. allows a probate court employee who believes he or she was retaliated against to either (a) file a retaliation complaint with the Commission on Human Rights and Opportunities or (b)

bring a civil action; and

5. requires each probate court to post a notice of the whistleblower law in a conspicuous location.

§ 13 — REPORTS TO DEPARTMENT OF REVENUE SERVICES

By law, each public agency that purchases goods or services or leases real or personal property must, annually by August 1, provide the revenue services commissioner with a list of all persons that provided such goods or services or leased such real or personal property.

The bill requires agencies to include in the list all persons paid by a third-party administrator on behalf of the agency using state funds to purchase goods and services. Under the bill, agencies must comply with this requirement by August 1, 2016. However, this section of the bill is not effective until October 1, 2016.

The bill also requires that the list be submitted electronically, rather than on a compatible magnetic tape file, or in another form acceptable to the revenue services commissioner.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 13 Nay 0 (02/29/2016)